

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

June 11, 1985

Harry M. Snyder, Director
Consumers Union of U.S., Inc.
West Coast Regional Office
1535 Mission Street
San Francisco, CA 94103

Re: Your Request for Advice
Our File No. A-85-131

Dear Mr. Snyder:

This is in response to your letter of April 22, 1985, which asked whether Consumers Union will incur any reporting obligations under the Political Reform Act^{1/} if it provides a complimentary subscription of Consumer Reports which is published by Consumers Union to each member of the Legislature and to the Governor. The value of an annual subscription is \$16. Although your letter did not so state, I have determined that Consumers Union of the U.S., Inc., is currently filing quarterly reports as a Lobbyist Employer and that you are registered to lobby on their behalf.

The definition of the term "gift" specifically excludes "informational materials such as books, reports, pamphlets, calendars or periodicals." Section 82028(b)(1). The subscription to Consumer Reports falls into this exclusion and is not a "gift" within the meaning of the lobbyist gift prohibition (Section 86203) or the financial disclosure provisions (Section 87207).

However, the furnishing of the free subscription may constitute a "payment to influence" which must be reported on the Consumers Union Lobbyist Employer Report. See Opinion

^{1/} The Political Reform Act is contained in Government Code Sections 81000-91015. All statutory references are to the Government Code.

Harry M. Snyder, Director
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requested by Robert H. Nida, 3 FPPC Opinions (No. 75-075-5, Jan. 4, 1977, copy enclosed). In Nida, the Commission held that furnishing informational materials free of charge will be reportable as a payment to influence pursuant to Section 86109(c) if any of the following are true:

(1) They are provided to support or assist the employer's lobbyist when he is attempting to influence a matter pending before the Legislature or other state agency.

(2) They are provided at the request or suggestion of the lobbyist when the request or suggestion is related to an attempt to influence legislative or administrative action.

(3) They are provided as part of an effort by the lobbyist employer to influence some specific legislative or administrative action.

(4) They are provided to officials who will derive some personal benefit from the materials, or if they are provided to an elected state officer for distribution to the public.^{2/}

We do not have enough facts to determine whether any of the tests are met, except that, in this situation, it seems reasonable to conclude that the recipient officials will likely derive personal benefit from the subscriptions. Consumers Reports is a periodical which many use in making personal decisions on the purchase of products; it is often used as a reference tool and product guide. Therefore, unless there are facts to indicate otherwise, it appears that the subscriptions are payments to influence. They should be reported as Other Payments to Influence on Consumer Union's Lobbyist Employer Report (Part II.D.) You do not have to report the payments on your Lobbyist Report.

Sincerely,



Diane Mautz Fishburn
Counsel
Legal Division

DMF:plh
Enclosure

^{2/} On the other hand, informational materials which are exclusively job related or which are provided for general distribution to state employees or to the public are not considered payments to influence.

April 22, 1985

Fair Political Practices Commission
1100 "K" Street Building
P. O. Box 807
Sacramento, CA 95804-0807

Dear Sir or Madam:

We are giving a complimentary subscription of Consumer Reports to each member of the Legislature and to the Governor. The annual value of each complimentary subscription is \$16.00. Is there any necessity to report this and, if so, how do we do so?

Thank you for your help in this matter.

Sincerely,



Harry M. Snyder, Director
Consumers Union of U.S., Inc.
West Coast Regional Office